

FILED
10/17/00
STATE BOARD OF
SHORTHAND REPORTING

JAY J. CHURCH
Executive Director

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF SHORTHAND REPORTING

In the Matter of the Revocation
Or Suspension of the License of

ELIZABETH AITKEN, C.S.R.

to Practice Shorthand Reporting
in the State of New Jersey

:
:
:
: Administrative Action
:
: **FINAL ORDER**
: **OF DISCIPLINE**
:
:

This matter was opened to the State Board of Shorthand Reporting (hereinafter the "Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. The respondent, Elizabeth Aitken, C.S.R., is a shorthand reporter in the State of New Jersey and has been a certificate holder at all times relevant hereto.

2. On or about April 30, 1999, a complaint was filed against the respondent, in Hackensack, Bergen County, charging her with one count of theft, in violation of N.J.S.A. 2C:20-3A, by unlawfully taking or exercising control over certain movable property, to wit \$6,854.59, belonging to North Jersey Court Reporting Service ("North Jersey") with the intent to deprive the owners of North Jersey of the use of such sums.

3. On February 1, 2000, the respondent appeared before the Honorable Bruce A. Gaeta, J.S.C., Superior Court of New Jersey, Bergen County, to enter a plea on Accusation Number 17200. No plea was entered. At that time, she testified that she was employed as a court reporter at North Jersey between 1996 and 1999. The respondent admitted that during the stated time period, she received inflated paychecks and bills for services that she did not perform. She further admitted that she kept said monies and returned some of the inflated funds to Dawn Thompson, another employee of North Jersey, knowing that neither she nor Ms. Thompson were entitled to the monies. A copy of the transcript of the respondent's February 1, 2000, court appearance is attached hereto and made a part hereof.

4. Following her testimony on February 1st, the Court suspended the proceedings on the Accusation for a period of six (6) months and admitted the respondent into the Pretrial Intervention ("PTI") Program. The respondent is also required to provide restitution to North Jersey in the amount of \$5,000.00. Finally, the respondent testified that she was aware that if she successfully completed the PTI program, the charges against her would be dismissed but that if she violated any of the PTI Program's rules, she would be dismissed from the program and her case would be presented to the Grand Jury.

CONCLUSIONS OF LAW

Respondent's sworn testimony concerning her admitting her receipt of inflated paychecks and bills for services that she did not

perform from her Court Reporting employer, her retaining said monies, and her sharing of the inflated funds with another employee of the reporting agency, while knowing that neither she nor the other employee were entitled to the monies, provides evidence of: 1) the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense; and 2) professional misconduct. The respondent's conduct outlined above therefore provides grounds for the revocation of her certificate to practice shorthand reporting in the State of New Jersey pursuant to N.J.S.A. 45:1-21(b) and (e).

DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline revoking the respondent's certificate to practice shorthand reporting in the State of New Jersey was entered on May 17, 2000, and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Through her counsel, Gerald R. Salerno, Esquire, the respondent submitted mitigation evidence, in a written correspondence dated June 13, 2000, for Board consideration. In this response, the

respondent disputed the Board's preliminary finding that her conduct constituted the use and employment of fraud and misrepresentation. She maintained that her misconduct was related to the compensation of her employment and not to her performance as a certified shorthand reporter. Additionally, respondent sought a mitigation of the preliminarily imposed sanctions. She contended that revocation of her certificate, and the proposed monetary fine, was a harsh and excessive penalty given the circumstances surrounding her conduct. Therefore, she requested that the Board impose a suspension of her shorthand certificate and a reduction in the amount of the intended civil penalty.

The respondent's submissions were reviewed by the Board at its June 20, 2000, meeting. The Board determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board was not persuaded that the submitted materials merited any evidentiary proceedings, as respondent did not substantially dispute the Findings of Fact or Conclusions of Law. The Board found that N.J.S.A. 45:15B-3, which details the requirements for certification, mandates that a certified shorthand reporter must be of good moral character. It concluded that the respondent's conduct of accepting inflated paychecks and bills for services that she did not perform from her Court Reporting employer and sharing said funds with another employee, was egregious and reprehensible. The Board finds the fact that the respondent participated in the misconduct at all, and at any level, most troublesome, regardless of the amount of monies she personally

received. Further, the Board noted that the misconduct was not an isolated incident, but rather continuous and ongoing misconduct in which she willingly participated. Moreover, while the Board recognizes that its proposed sanctions are severe, it finds the respondent's conduct so deplorable as to warrant revocation and the maximum civil penalty. Hence, the Board voted to finalize the Provisional Order without modification.

Subsequent to the Board's June 2000 meeting and consideration of this matter, the respondent submitted, in a letter dated July 24, 2000, a copy of an Order and the Order of Dismissal, both filed on July 10, 2000, which indicated that the criminal Accusation against her had been dismissed since she had successfully completed the Pretrial Intervention Program. The Board, at its September 18, 2000, meeting, reviewed the respondent's latest submission. Notwithstanding the fact that the respondent has completed the Pretrial Intervention Program and that the Accusation has now been dismissed, the facts constituting the underlying misconduct remain unchanged in that the respondent accepted inflated paychecks and bills for services that she did not perform from her Court Reporting employer and shared said funds with another employee also involved in the theft of said funds. The Board concluded that the respondent's newly submitted information did not warrant an alteration of its June 20th determination.

IT IS, THEREFORE, ON THIS ^{11th} DAY OF ^{October} ~~SEPTEMBER~~ 2000,

ORDERED THAT:

1. The certificate of the respondent, Elizabeth Aitken, C.S.R., to practice shorthand reporting in the State of New Jersey shall be and is hereby revoked immediately. The respondent may not petition the Board for reinstatement of her certificate prior to April 2003.

2. The respondent shall comply with all of the provisions of the Board's Final Order of Discipline in this matter, as well as all the conditions of the Pretrial Intervention Program, including the payment of the restitution, or any Order of the Court should she not successfully complete the Program, prior to applying to the Board for reinstatement of her certificate.

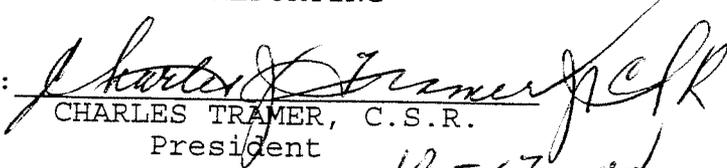
3. The respondent is hereby assessed a civil penalty in the amount of \$10,000.00 for her use of dishonesty, fraud and deception and professional misconduct contrary to N.J.S.A. 45:1-21(b) and (e).

4. The respondent is hereby formally reprimanded by the Board for her violation of N.J.S.A. 45:1-21(b) and (e).

5. Should respondent seek reinstatement, a personal appearance before the State Board of Shorthand Reporting may be required at which time the burden will be on Elizabeth Aitken to demonstrate that she is morally fit and professionally qualified to resume the responsibilities of a certified shorthand reporter.

NEW JERSEY STATE BOARD
OF SHORTHAND REPORTING

By:


CHARLES TRAMER, C.S.R.
President

10-17-03